

Senate Bill No. 18

Passed the Senate July 11, 1997

Secretary of the Senate

Passed the Assembly June 30, 1997

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1997, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to amend Section 1523 of the Code of Civil Procedure, and to amend Section 12936 of the Insurance Code, relating to insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 18, Rosenthal. Insurance: funds.

Under existing law, property held by a business that is unclaimed for more than 3 years escheats to the state and, in general, is deposited into the Unclaimed Property Fund. Existing law also provides that insurance rebates ordered under Proposition 103 that cannot be made escheat to the state, and provides that, for the 1996–97 fiscal year, amounts in excess of \$14,000,000 are deposited in the Insurance Fund to repay a specified loan, and amounts that escheat in the 1997–98 fiscal year also shall be deposited in the Insurance Fund in an amount necessary to repay that loan.

This bill would provide that funds subject to escheat under the above provisions that are subject to escheat on or after July 1, 1997, shall be transferred by the Controller to the Department of Insurance for deposit in the Insurance Fund up to the amount that will repay principal and interest on the General Fund loan authorized by the Budget Act of 1996. It would provide that those funds are continuously appropriated for that purpose. It would provide for a transfer to the General Fund on June 30, 1998, and, if necessary, on June 30, 1999. The bill would make related changes.

Since the bill would affect the distribution of insurance rebates ordered under Proposition 103, it would amend Proposition 103 and, thus, would require a $\frac{2}{3}$ vote for enactment.

This bill would also require the Controller to transfer \$10,000,000 from the General Fund to the Insurance Fund in equal payments over 3 years, to commence during the



first quarter of the 1997–98 fiscal year, to resolve the issues raised by pending litigation in a specified case concerning the alleged unlawful transfer of money from the Insurance Fund to the General Fund. It would authorize the payment of a sum not to exceed \$50,000 for payment of plaintiffs’ attorneys’ fees in that case. It would provide for the use of the funds by the Department of Insurance for specified purposes.

The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1523 of the Code of Civil Procedure is amended to read:

1523. If an insurer, after a good faith effort to locate and deliver to a policyholder a Proposition 103 rebate ordered or negotiated pursuant to Section 1861.01 of the Insurance Code, determines that a policyholder cannot be located, all funds attributable to that rebate escheat to the state and shall be delivered to the Controller. The funds subject to escheat on or after July 1, 1997, shall be transferred by the Controller to the Department of Insurance for deposit in the Insurance Fund up to the amount that will repay principal and interest on the General Fund loan authorized by Item 0845-001-0001 of the Budget Act of 1996 for expenditure as provided in Section 12936 of the Insurance Code.

SEC. 2. Section 12936 of the Insurance Code is amended to read:

12936. (a) (1) Escheated funds deposited in the Insurance Fund pursuant to Section 1523 of the Code of Civil Procedure shall be transferred to the General Fund on June 30, 1998, to repay the principal and interest on the General Fund loan provided pursuant to Item 0845-001-0001 of the Budget Act of 1996, and such funds are hereby continuously appropriated for that purpose.

(2) If the Director of Finance determines that funds subject to escheat for the 1997–98 fiscal year are



insufficient to repay the General Fund loan plus the interest owed, funds subject to escheat in the 1998–99 fiscal year, up to the amount necessary to repay the General Fund loan plus the interest owed, shall be available for expenditure by the commissioner to repay the principal and interest on the General Fund loan. Notwithstanding the loan repayment date specified in Item 0845-001-0001 of the Budget Act of 1996, such a determination by the Director of Finance shall trigger an extension of the loan repayment date to June 30, 1999.

(b) A policyholder who was entitled to a rebate pursuant to settlement or order of the commissioner and who has not received the escheated rebate may submit a claim to the Controller. The Controller shall pay the claim from among the Proposition 103 refunds that have escheated to the state and been deposited in the Unclaimed Property Fund upon verification that the claim is valid.

SEC. 3. (a) The purpose of Sections 3, 4, and 5 of this act is to immediately resolve the issues raised by pending litigation in the case of Edward M. Gaines, American Insurance Association, National Association of Independent Insurers, and the Personal Insurance Federation of California v. Craig Brown, as Director of Finance of the State of California, Kathleen Connell, as Controller of the State of California, and Matt Fong, as Treasurer of the State of California, concerning the alleged unlawful transfer of ten million dollars (\$10,000,000) from the Insurance Fund, a fund derived from money collected from the insurance industry to support the Department of Insurance, to the state's General Fund, to be used for General Fund purposes, pursuant to the Budget Act of 1992.

(b) The Legislature finds that the resolution of the issues set forth in this act is fair and reasonable, and shall be implemented immediately by the Department of Finance, Controller, and Treasurer.

SEC. 4. The Controller shall transfer ten million dollars (\$10,000,000) from the General Fund to the



Insurance Fund in the manner, and for expenditure, as provided in Section 5 of this act.

SEC. 5. (a) In accordance with Section 4 of this act, the Controller shall transfer ten million dollars (\$10,000,000) from the General Fund to the Insurance Fund in equal annual payments over a three-year period. The first transfer shall commence during the first quarter of the 1997–98 fiscal year.

(b) A sum, not to exceed fifty thousand dollars (\$50,000), shall be deducted by the Controller from the first annual payment to pay plaintiffs' attorneys' fees and costs in the case cited in Section 3 of this act. Upon notification from the Insurance Commissioner that a sum has been agreed to by the parties or determined by the court, and upon the furnishing to the Controller of a court-endorsed copy of the dismissal with prejudice of the case, the Controller shall draw and issue a warrant from this sum made payable to plaintiffs' counsel of record.

(c) Funds transferred to the Insurance Fund during the three-year period are hereby appropriated for expenditure by the Insurance Commissioner to fund consumer services programs of the Department of Insurance through the 1999–2000 fiscal year. The funds may also be used by the department during this period for the investigation of and enforcement actions against licensees of the department.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to immediately resolve issues raised in the case of Gaines, et al. v. Brown, et al., referred to in Section 3 of this act, involving the transfer of money from the Insurance Fund to the General Fund, and in order to provide for the deposit of funds to the Insurance Fund as soon as possible to ensure that adequate funding is available for essential consumer protection services of the Department of Insurance, it is necessary that this act take effect immediately.



Approved _____, 1997

Governor

